

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:10-CV-139-DCK**

ANGELA SPAIN,

Plaintiff,

v.

CELLCO PARTNERSHIP, d/b/a
VERIZON WIRELESS,

Defendant.

ORDER

THIS MATTER IS BEFORE THE COURT *sua sponte*, regarding Plaintiff's "Motion To Deny Defendant's Motion For Summary Judgment And Motion To Permit Depositions To Be Taken And Further Discovery" (Document No. 69) filed February 15, 2012. The parties have consented to Magistrate Judge jurisdiction pursuant to 28 U.S.C. § 636(c), and immediate review of Plaintiff's "motion" is appropriate.

As noted on the docket for this case, Plaintiff's "motion" is properly construed as Plaintiff's Memorandum in Opposition to Defendant's Motion for Summary Judgment (Document No. 65). To the extent Plaintiff's response to the motion for summary judgment also seeks to make a motion to permit depositions and/or discovery, it is in violation of the Local Rules. The Local Rules provide, *inter alia*, that motions shall not be included in responsive briefs, but must be set forth as separately filed pleadings; in addition, motions must show that counsel have conferred, and must be accompanied by a brief in support. See Local Rules 7.1(B), 7.1(C) and 7.1(C)(2).

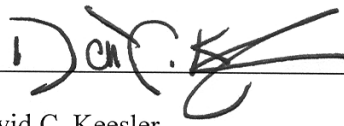
The undersigned observes that the Court has at least twice in the recent history of this case reminded Plaintiff of the requirements of Local Rule 7.1. See (Document Nos. 54 and 64). Plaintiff's counsel is respectfully advised to carefully review the Rules of Practice and Procedure

of the United States District Court for the Western District of North Carolina (the “Local Rules”) prior to filing any further motions with this Court.

IT IS, THEREFORE, ORDERED that Plaintiff’s “...Motion To Permit Depositions To Be Taken And Further Discovery” (Document No. 69) is **DENIED WITHOUT PREJUDICE**. Plaintiff’s “Motion To Deny Defendant’s Motion For Summary Judgment And Motion To Permit Depositions To Be Taken And Further Discovery” (Document No. 69) will only be considered by the Court to the extent it is a responsive memorandum in opposition to Defendant’s pending “Motion For Summary Judgment” (Document No. 65).

IT IS FURTHER ORDERED that Defendant shall file a reply to the response to its “Motion For Summary Judgment” pursuant to Local Rule 7.1(E), on or before **February 27, 2012**.

Signed: February 16, 2012



David C. Keesler
United States Magistrate Judge

